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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/810,820

03/29/2004

Joachim Lange

P8182US

1009

7590

08/22/2006

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EXAMINER

ROSENBERGER, FREDERICK F

ART UNIT

PAPER NUMBER

2884

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A

Office Action Summary	Application No.	Applicant(s)	
	10/810,820	LANGE ET AL.	
	Examiner	Art Unit	
	Frederick F. Rosenberger	2884	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-25 is/are pending in the application.
- 4a) Of the above claim(s) 17-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/12/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's reply, filed 12 June 2006, has been received and entered.

Accordingly, changes have been made to drawings. Claims 1-16 have been cancelled. Claims 17-25 have been added. Thus, claims 17-25 are currently pending in this application.

2. The drawings were received on 12 June 2006. These drawings are acceptable.

Election/Restrictions

3. Newly submitted claims 17-25 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 1-16 are directed towards an X-ray or neutron system comprising, among other elements, a beam stop and means for displacing the beam stop along a z-axis for optimal adjustment of impinging radiation. Claims 17-25 are directed towards a method of adjusting an X-ray or neutron system to time changes in a primary beam by automatically adjusting a position of the beam stop. The system discussed in claims 1-16 does not require all the elements put forth in claims 17-25. Further, the system disclosed in claims 1-16 can be used in a different manner than that put forth in the method of claims 17-25. As such, the method claims 17-25 are distinct from the invention originally claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for

Art Unit: 2884

prosecution on the merits. Accordingly, claims 17-25 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Amendment

4. The reply filed on 12 June 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Claims 1-16 have been cancelled while claims 17-25 have been withdrawn as directed to a non-elected invention, as discussed above. As such, there are no claims currently pending for consideration. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick F. Rosenberger whose telephone number is 571-272-6107. The examiner can normally be reached on Monday-Friday 8:00 AM - 5:00 PM.

Art Unit: 2884

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Frederick F. Rosenberger
Patent Examiner
GAU 2884



DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800